

2008 UPDATE OF CALIFORNIA LAWS AND REGULATIONS LISTED IN THE 2007 OL STUDY GUIDE.

This document provides HCD licensees and license applicants the 2007 legislative amendments and regulation changes, effective 1/1/2008 (unless otherwise noted), that affect the following sections of either the California Health and Safety Code (HSC), California Civil Code (CC), or Title 25 of the California Code of Regulations (25CCR) as reprinted in the 2007 OL Study Guide.

- Chapter 540, Statutes of 2007 (Senate Bill No. 538) amends HSC Sections 18000, 18007, 18008, 18008.7 and 18028.
- Chapter 543, Statutes of 2007 (Assembly Bill No. 339) amends HSC Section 18035.
- Chapter 166, Statutes of 2007 (Assembly Bill No. 1153) amends HSC Sections 18050 and 18070.3.
- Chapter 549, Statutes of 2007 (Assembly Bill No. 446) amends CC Section 798.73.
- Amendments approved for Sections 5060, 5061, 5062, and 5064 of Title 25CCR, Chapter 4.

Note: The following amended section is not included in this study guide. Chapter 596, Statutes of 2007 (Assembly Bill No. 382) amends CC Section 798.6.

The amended language is shown in ***bolded italicized*** text.

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HSC § 18000.Citation of part

(a) This part shall be known and may be cited as the Manufactured Housing Act of 1980.

(b) The Legislature finds and declares all of the following:

(1) Manufactured housing, both in mobilehome parks or manufactured housing communities, and outside of those parks or communities, provides a safe and affordable housing option for many Californians.

(2) Confusion exists among consumers, enforcement agencies, lenders, and others in the housing industry regarding the difference between "manufactured housing" and "mobilehomes." All single-family factory-constructed housing built on or after June 15, 1976, that is in compliance with the standards of the United States Department of Housing and Urban Development promulgated under the federal National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 and following) are manufactured housing or manufactured homes, not "mobilehomes" and, as such, often are subject to additional benefits.

(3) Continued use of the term "mobilehome" in various statutes, as well as the implication that the terms are interchangeable, exacerbates the confusion between the two products and deters affordable financing, discourages use in certain localities, and perpetuates incorrect perceptions as to codes and standards.

(4) The changes made by the act adding this subdivision to clarify the meaning of the terms "mobilehomes" and "manufactured homes" are not intended to effect any substantive change with respect to the treatment of those housing products or to the consumer protections provided for those housing products.

HSC § 18007. "Manufactured home"

(a) "Manufactured home," for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

(b) Notwithstanding any other provision of law, if a codified provision of state law uses the term "manufactured home," and it clearly appears from the context that the term "manufactured home" should apply only to manufactured homes, as defined under subdivision (a), the codified provision shall apply only to those manufactured homes. If any codified provision of state law, by its context, requires that the term applies to manufactured homes or mobilehomes without regard to the date of construction, the codified provision shall apply to both manufactured homes, as defined under subdivision (a), and mobilehomes as defined under Section 18008.

HSC § 18008. "Mobilehome"

(a) "Mobilehome," for the purposes of this part, means a structure that was constructed prior to June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected onsite, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation system when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Mobilehome" includes any structure that meets all the requirements of this paragraph and complies with the state standards for mobilehomes in effect at the time of construction. "Mobilehome" does not include a commercial modular, as defined in Section 18001.8, factory-built housing, as defined in Section 19971, a manufactured home, as defined in Section 18007, a multifamily manufactured home, as defined in Section 18008.7, or a recreational vehicle, as defined in Section 18010.

(b) Notwithstanding any other provision of law, if a codified provision of state law uses the term "mobilehome," and it clearly appears from the context that the term "mobilehome" should apply only to mobilehomes, as defined under subdivision (a), the codified provision shall apply only to those mobilehomes. If any codified provision of state law, by its context, requires that the term applies to mobilehomes or manufactured homes without regard to the date of construction, the codified provision shall apply to both mobilehomes, as defined under subdivision (a), and manufactured homes, as defined under Section 18007.

HSC § 18008.7. "Multifamily manufactured home"

a) "Multifamily manufactured home," for the purposes of this part, means either of the following:

(1) A structure transportable under permit in one or more sections, designed and equipped to contain not more than two dwelling units, a dormitory, or an efficiency unit, to be used either with a support system pursuant to Section 18613 or a foundation system pursuant to subdivision (a) of Section 18551.

(2) A structure transportable under permit in one or more sections, designed to be used with a foundation system for three or more dwelling units, as defined by Section 18003.3.

(b) Multifamily manufactured homes shall be constructed in compliance with applicable department regulations. The egress and fire separation requirements of Title 24 of the California Code of Regulations applicable to dormitories, hotels, apartment houses, and structures that contain two dwelling units shall also be applicable to all multifamily manufactured homes constructed for those purposes. The accessibility and adaptability requirements of Title 24 of the California Code of Regulations applicable to covered multifamily dwelling units shall also be applicable to multifamily manufactured homes containing three or more dwelling units.

(c) Notwithstanding any other provision of law, all provisions of law that apply to manufactured homes shall apply equally to multifamily manufactured homes, except as provided in this section.

(d) For purposes of this section:

(1) "Dormitory" means a room or rooms inhabited for the purposes of temporary residence by two or more persons.

(2) "Efficiency unit" has the same meaning as defined in Section 17958.1.

(3) "Multiunit manufactured housing" has the same meaning as "multifamily manufactured home," as that term is defined in this section.

HSC § 18028. Adoption of regulations for construction of certain vehicles not subject to federal standards

(a) The department may adopt regulations regarding the construction of commercial modulares and special purpose commercial modulares, other than mobile food facilities subject to Article 11 (commencing with Section 114250) of Chapter 4 of Part 7 of Division 104, and of multifamily manufactured homes, manufactured homes, and mobilehomes that are not subject to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C. Sec. 5401 et seq.) that the department determines are reasonably necessary to protect the health and safety of the occupants and the public.

(b) Requirements for the construction, alteration, or conversion of commercial modulares shall be those contained, with reasonably necessary additions or deletions, as adopted by department regulations, in all of the following:

(1) The 1991 Edition of the Uniform Building Code, published by the International Conference of Building Officials.

(2) The 1993 Edition of the National Electrical Code, published by the National Fire Protection Association.

(3) The 1991 Edition of the Uniform Mechanical Code, published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials.

(4) The 1991 Edition of the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials.

(c) (1) The department shall, on or after January 1, 2008, adopt regulations for the construction, alteration, or conversion of commercial modulares based on Parts 2, 3, 4, 5, and 6 of the California Building Standards Code, as contained in Title 24 of the California Code of Regulations, with appropriate additions, deletions, and other implementing provisions. The regulations adopted under this paragraph shall be

placed within Title 25 of the California Code of Regulations.

(2) The requirements promulgated by the department pursuant to this section shall only apply to the construction, alteration, and conversion of commercial modulars, and not to the use or operation of commercial modulars.

(d) No municipality shall prohibit the use of commercial modulars that bear a valid insignia, based on the date the insignia was issued.

HSC § 18035. Escrow account; Provisions of escrow instructions; Escrow procedure; Damages action.

(a)(1) For every transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome subject to registration under this part, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase contemporaneous with, or prior to, the receipt of any cash or cash equivalent from the buyer, shall establish an escrow account with an escrow agent, and shall cause to be deposited into that escrow account any cash or cash equivalent received at any time prior to the close of escrow as a deposit, downpayment, or whole or partial payment for the manufactured home or mobilehome or accessory thereto. Checks, money orders, or similar payments toward the purchase shall be made payable only to the escrow agent.

(2) The downpayment, or whole or partial payment, shall include an amount designated as a deposit, which may be less than, or equal to, the total amount placed in escrow, and shall be subject to subdivision (f). The parties shall provide for escrow instructions that identify the fixed amounts of the deposit, downpayment, and balance due prior to closing consistent with the amounts set forth in the purchase documents and receipt for deposit if one is required by Section 18035.1. The deposits shall be made by the dealer within five working days of receipt, one of which shall be the day of receipt.

(3) For purposes of this section, "cash equivalent" means any property, other than cash. If an item of cash equivalent is, due to its size, incapable of physical delivery to the escrow holder, the property may be held by the dealer for the purchaser until close of escrow and, if the property has been registered with the department or the Department of Motor Vehicles, its registration certificate and, if available, its certificate of title shall be delivered to the escrow holder.

(b) For every transaction by or through a dealer to sell or lease with the option to buy a new manufactured home or mobilehome subject to registration under this part, the escrow instructions shall provide all of the following: (1) That the original manufacturer's certificate of origin be placed in escrow.

(2)(A) That, in the alternative, either of the following shall occur:

(i) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisfied by payment from the escrow account.

(ii) The inventory creditor shall consent in writing to other than full payment.

(B) For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome, as contemplated by Section 9103 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

(c) For every transaction by or through a dealer to sell or lease with the option to buy a used manufactured home or mobilehome subject to registration under this part, the escrow instructions shall provide:

(1) That the current registration card, all copies of the registration cards held by junior lienholders, and the certificate of title be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A) (i) The registered owner shall acknowledge in writing the amount of the commission to be received by the dealer for the sale of the manufactured home or mobilehome, and (ii) the registered owner shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of the escrow where the buyer has executed a security agreement approved by the registered owner covering the unpaid balance of the purchase price.

(B) (i) The dealer shall declare in writing that the manufactured home or mobilehome is its inventory, (ii) the registered owner shall acknowledge in writing that the purchase price relating to the sale of the manufactured home or mobilehome to the dealer for resale has been paid in full by the dealer, (iii) the current certificate of title shall be appropriately executed by the registered owner to reflect the release of all of its ownership interests, and (iv) the dealer shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of escrow where the buyer has executed a security agreement approved by the dealer covering the unpaid balance of the purchase price.

(3) That, in the alternative, the legal owner and each junior lienholder, respectively, shall do either of the following:

(A) Release his or her security interest or transfer its security interest to a designated third party contemporaneously upon the payment of a specified amount from the escrow account.

(B) Advise the escrow agent in writing that the new buyer or the buyer's stated designee shall be approved as the new registered owner upon the execution by the buyer of a formal assumption of the indebtedness secured by his or her lien approved by the creditor at or before the close of escrow.

(d) For every transaction by or through a dealer to sell or lease with the option to buy a used manufactured home or mobilehome subject to registration under this part:

(1) The dealer shall present the buyer's offer to purchase the manufactured home or mobilehome to the seller in written form signed by the buyer. The seller, upon accepting the offer to purchase, shall sign and date the form. Copies of the fully executed form shall be presented to both the buyer and seller, with the original copy retained by the dealer. Any portion of the form that reflects the commission charged by the dealer to the seller need not be disclosed to the buyer.

(2) The escrow agent, upon receipt of notification from the dealer that the seller has accepted the buyer's offer to purchase and receipt of mutually endorsed escrow instructions, shall, within three working days, prepare a notice of escrow opening on the form prescribed by the department and forward the completed form to the department with appropriate fees. If the escrow is canceled for any reason before closing, the escrow agent shall prepare a notice of escrow cancellation on the form prescribed by the department and forward the completed form to the department.

(3)(A) The escrow agent shall forward to the legal owner and each junior lienholder at their addresses shown on the current registration card a written demand for a lien status report, as contemplated by Section 18035.5, and a written demand for either an executed statement of conditional lien release or an executed statement of anticipated formal assumption, and shall enclose blank copies of a statement of conditional lien release and a statement of anticipated formal assumption on forms prescribed by the department. The statement of conditional lien release shall include, among other things, both of the following:

(i) A statement of the dollar amount or other conditions required by the creditor in order to release or transfer its lien.

(ii) The creditor's release or transfer of the lien in the manufactured home or mobilehome

contingent upon the satisfaction of those conditions.

(B) The statement of anticipated formal assumption shall include, among other things, both of the following:

(i) A statement of the creditor's belief that the buyer will formally assume the indebtedness secured by its lien pursuant to terms and conditions which are acceptable to the creditor at or before the close of escrow.

(ii) The creditor's approval of the buyer or his or her designee as the registered owner upon the execution of the formal assumption.

(4) Within five days of the receipt of the written demand and documents required by paragraph (3), the legal owner or junior lienholder shall complete and execute either the statement of conditional lien release or, if the creditor has elected to consent to a formal assumption requested by a qualified buyer, the statement of anticipated formal assumption, as appropriate, and prepare the lien status report and forward the documents to the escrow agent by first-class mail. If the creditor is the legal owner, the certificate of title in an unexecuted form shall accompany the documents. If the creditor is a junior lienholder, the creditor's copy of the current registration card in an unexecuted form shall accompany the documents.

(5) If either of the following events occur, any statement of conditional lien release or statement of anticipated formal assumption executed by the creditor shall become inoperative, and the escrow agent shall thereupon return the form and the certificate of title or the copy of the current registration card, as appropriate, to the creditor by first-class mail:

(A) The conditions required in order for the creditor to release or transfer his or her lien are not satisfied before the end of the escrow period agreed upon in writing between the buyer and the seller or, if applicable, before the end of any extended escrow period as permitted by subdivision (g).

(B) The registered owner advises the creditor not to accept any satisfaction of his or her lien or not to permit any formal assumption of the indebtedness and the creditor or registered owner advises the escrow agent in writing accordingly.

(6) If a creditor willfully fails to comply with the requirements of paragraph (4) within 21 days of the receipt of the written demand and documents required by paragraph (3), the creditor shall forfeit to the escrow agent three hundred dollars (\$300), except where the creditor has reasonable cause for noncompliance. The three hundred dollars (\$300) shall be credited to the seller, unless otherwise provided in the escrow instructions. Any penalty paid by a creditor under this paragraph shall preclude any civil liability for noncompliance with Section 18035.5 relating to the same act or omission.

(e) For every transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome, the escrow instructions shall specify one of the following:

(1) Upon the buyer receiving delivery of an installed manufactured home or mobilehome on the site and the manufactured home or mobilehome passing inspection pursuant to Section 18613 or after the manufactured home or mobilehome has been delivered to the location specified in the escrow instructions when the installation is to be performed by the buyer, all funds in the escrow account, other than escrow fees and amounts for accessories not yet delivered, shall be disbursed. If mutually agreed upon between buyer and dealer, the escrow instructions may specify that funds be disbursed to a government agency for the payment of fees and permits required as a precondition for an installation acceptance or certificate of occupancy, and the information that may be acceptable to the escrow agent.

(2) Upon the buyer receiving delivery of an installed manufactured home or mobilehome not subject to the provisions of Section 18613 with delivery requirements as mutually agreed to and set forth in the sales documents, all funds in the escrow account, other than escrow fees, shall be disbursed.

(f) Upon receiving written notice from a party to the escrow of a dispute, the escrow agent shall inform the party of his or her right to hold funds in escrow by submitting a

written request to hold funds in escrow. Upon receipt by the escrow agent of a party's written request to hold funds in escrow, all funds denoted as deposit shall be held in escrow until a release is signed by the disputing party, or pursuant to new written escrow instructions signed by the parties involved, or pursuant to a final order for payment or division by a court of competent jurisdiction. Any other funds, other than escrow fees, shall be returned to the buyer or any person, other than the dealer or seller, as appropriate. **At the opening of escrow, the escrow agent shall give notice of the right to request that funds be held in escrow pursuant to this subdivision.**

(g) Escrow shall be for a period of time mutually agreed upon, in writing, by the buyer and the seller. However, the parties may, by mutual consent, extend the time, in writing, with notice to the escrow agent.

(h) No dealer or seller shall establish with an escrow agent any escrow account in an escrow company in which the dealer or seller has more than a 5 percent ownership interest.

(i) The escrow instructions may provide for the proration of any local property tax due or to become due on the manufactured home or mobilehome, and if the tax, or the license fee imposed pursuant to Section 18115, or the registration fee imposed pursuant to Section 18114, is delinquent, the instructions may provide for the payment of the taxes or fees, or both, and any applicable penalties.

(j) For every transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome that is subject to inspection pursuant to Section 18613, and for which it is stated, on the face of the document certifying or approving occupancy or installation, that the issuance of the document is conditioned upon the payment of a fee, charge, dedication, or other requirement levied pursuant to Section 53080 of the Government Code, the escrow instructions shall provide that the payment of that fee, charge, dedication, or other requirement be made to the appropriate school district upon the close of escrow.

(k) No agreement shall contain any provision by which the buyer waives his or her rights under this section, and any waiver shall be deemed contrary to public policy and shall be void and unenforceable.

(l) If a portion of the amount in the escrow is for accessories, then that portion of the amount shall not be released until the accessories are actually installed.

(m) Upon opening escrow on a used manufactured home or mobilehome which is subject to local property taxation, and subject to registration under this part, the escrow officer may forward to the tax collector of the county in which the used manufactured home or mobilehome is located, a written demand for a tax clearance certificate, if no liability exists, or a conditional tax clearance certificate if a tax liability exists, to be provided on a form prescribed by the office of the Controller. The conditional tax clearance certificate shall state the amount of the tax liability due, if any, and the final date that amount may be paid out of the proceeds of escrow before a further tax liability may be incurred.

(1) Within five working days of receipt of the written demand for a conditional tax clearance certificate or a tax clearance certificate, the county tax collector shall forward the conditional tax clearance certificate or a tax clearance certificate showing no tax liability exists to the requesting escrow officer. In the event the tax clearance certificate's or conditional tax clearance certificate's final due date expires within 30 days of date of issuance, an additional conditional tax clearance certificate or a tax clearance certificate shall be completed which has a final due date of at least 30 days beyond the date of issuance.

(2) If the tax collector on which the written demand for a tax clearance certificate or a conditional tax clearance certificate was made fails to comply with that demand within 30 days from the date the demand was mailed, the escrow officer may close the escrow and submit a statement of facts certifying that the written demand was made on the tax collector and the tax collector failed to comply with that written demand within 30 days. This statement of facts may be accepted by the department in lieu of a conditional tax clearance certificate or a tax

clearance certificate, as prescribed by subdivision (a) of Section 18092.7, and the transfer of ownership may be completed.

(3) The escrow officer may satisfy the terms of the conditional tax clearance certificate by paying the amount of tax liability shown on the form by the tax collector out of the proceeds of escrow on or before the date indicated on the form and by certifying in the space provided on the form that all terms and conditions of the conditional tax clearance certificate have been complied with.

(n) This section creates a civil cause of action against a buyer or dealer or other seller who violates this section, and upon prevailing, the plaintiff in the action shall be awarded actual damages, plus an amount not in excess of two thousand dollars (\$2,000). In addition, attorney's fees and court costs shall also be awarded a plaintiff who prevails in the action.

HSC § 18050. Form and contents; Investigation

(a) Every applicant for an occupational license shall make application to the department for a license containing a general distinguishing number.

(b) The applicant shall submit all information as may be reasonably required by the department in carrying out the provisions of this chapter, including, but not limited to, proof of successful completion within the previous six months of the appropriate department examination and proof of his or her status as a bona fide manufacturer, distributor, dealer, dealer branch, or salesperson.

(c) Every applicant shall submit an application to the department on the forms prescribed by the department. The applicant shall provide the department with information as to the applicant's character, honesty, integrity, and reputation, as the department may consider necessary. The department, by regulation, shall prescribe what information is required of the applicant for the purposes of this subdivision.

(d) (1) In conjunction with the license application, the applicant shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of state or federal convictions, and state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

(2) Upon receipt of the fingerprint images and related information described in paragraph (1) from the applicant, the Department of Justice shall forward to the Federal Bureau of Investigation a request for federal summary criminal history information.

(3) Upon receipt of federal summary criminal history information from the Federal Bureau of Investigation, the Department of Justice shall review that information and compile and disseminate a response to the Department of Housing and Community Development pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The Department of Housing and Community Development shall request subsequent arrest notification service from the Department of Justice, as provided under Section 11105.2 of the Penal Code, for the applicant.

(5) The Department of Justice shall charge a fee sufficient to cover the cost of processing the requests describe in this subdivision.

(e) Upon receipt of a complete application for a license which is accompanied by the appropriate fee, the department shall, within 120 days, make a thorough investigation of the information contained in the application.

HSC § 18070.3. Filing of claims against fund; Limits on payments; Prerequisites; Time limitations; Other requirements; Satisfaction of judgment; Priority of

claims; Provision of information to legislature upon request

(a) When any person (1) who has purchased a manufactured home for a personal or family residential or investment purpose or (2) who has sold a manufactured home for a personal or family residential or investment purpose, obtains a final judgment against any manufactured home manufacturer, manufactured home dealer or salesperson, or other seller or purchaser, and the judgment is based on the grounds of (1) failure to honor warranties or guarantees, (2) fraud or willful misrepresentation related to any financial provision, (3) fraud or willful misrepresentation of the kind or quality of the product sold or purchased, (4) conversion, (5) any willful violation of any other provision of this part, including the provisions regulating escrow accounts, or regulations adopted pursuant to this part, or (6) violation of Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code, resulting in an actual and direct loss directly arising out of any transaction that occurs on or after January 1, 1985, the person, upon termination of all proceedings, including appeals, may file a claim with the department for an order directing payment out of the fund for the amount of actual and direct loss in the transaction.

(b) If any person either purchases a manufactured home used for a personal or family residential or investment purpose from, or sells a manufactured home used for a personal or family residential or investment purpose to, a person or entity who is or has been the subject of a bankruptcy proceeding, the person may file a claim with the department for an order directing payment out of the fund for the actual and direct loss in the transaction based on (1) the failure to honor warranties or guarantees, (2) fraud or willful misrepresentation related to any financial provision, (3) fraud or willful misrepresentation of the kind or quality of product purchased or sold, (4) conversion, (5) willful violation of any other provision in this part, including the provisions regulating escrow accounts, or (6) violation of Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code, resulting in an actual and direct loss directly arising out of any transaction that occurs on or after January 1, 1985.

(c)(1) The total amount of the claim shall not exceed the amount of actual and direct loss that remains unreimbursed from any source.

(2) The maximum payment ordered under this section, with respect to any one sales transaction on a new or used manufactured home, shall be the amount of the actual and direct loss, as determined by the department based on information in the possession of the department and information provided by the claimant or claimants. In no event shall the actual payment relating to a single transaction exceed seventy-five thousand dollars (\$75,000).

(3) Notwithstanding any other provision of this chapter, a person who purchases or sells a manufactured home for an investment purpose may receive payment from the fund for that purpose only once. A person who has received payment from the fund for the purchase or sale of a manufactured home for an investment purpose shall henceforth be ineligible to make a claim under this chapter, either as a natural person or as a member of a partnership, as an officer or director of a corporation, as a member of a marital community, or in any other capacity.

(d) Prior to payment of any claim against the fund, the claimant or claimants shall have first:

(1) If the claim is based on a final judgment, diligently pursued collection efforts against all the assets of the judgment debtor, or presented evidence satisfactory to the department that the debtor is judgment proof, or demonstrated evidence satisfactory to the department that the costs of collection are likely to be in excess of the amounts that could be collected. This evidence may include, but is not limited to, a description of the searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets liable to be sold or applied to the satisfaction of the judgment, an itemized valuation of the assets discovered, and the results of actions by the claimant to have assets applied to satisfy the judgment.

(2) If the claim is not based on a final judgment, presented evidence satisfactory to the

department of either of the following:

(A) That the **person or entity** is or has been the subject of bankruptcy proceedings and, for purposes of any civil litigation or claims in bankruptcy proceedings, has assigned to the department any interest in the actual and direct loss described in subdivision (c) in the amount that the claimant or claimants recover from the fund.

(B) That the claimant's claim is consistent with this chapter and the claimant had presented evidence satisfactory to the department that the debtor is judgment proof, or demonstrated evidence satisfactory to the department that the costs of collection are likely to be in excess of the amounts that could be collected. This evidence may include, but not be limited to, a description of searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets eligible to be sold or applied to the satisfaction of the judgment, an itemized valuation of the assets discovered, and the results of actions by the claimant to have the assets applied to satisfaction of the judgment.

(3) If the claim is based upon a violation of a provision within a warranty provided pursuant to Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code, demonstrated evidence satisfactory to the department that the claimant has been denied full compensation or correction under the warranty after the claimant has attempted to exercise his or her rights pursuant to the warranty.

(e) A claim against the fund shall be filed with the department within the following time periods:

(1) If the claim is based on a final judgment, within two years from the date of the judgment.

(2) If the claim is not based on a final judgment, within two years from the termination of bankruptcy proceedings or two years from the date of sale as determined by subdivision (a) of Section 18070.2, or within two years of discovery of the violations causing actual and direct losses pursuant to this article but no longer than five years after the date of sale as determined by subdivision (a) of Section 18070.2, whichever event occurs later.

(f) When any person files a claim for an order directing payment from the fund, the claimant shall mail, by first-class mail, a copy of that claim to the last known address of the judgment debtor. The department shall conduct a review of the application and other pertinent information in its possession, and it may issue an order directing payment out of the fund as provided in subdivisions (a) to (e), inclusive, subject to the limitations of subdivisions (a) to (e), inclusive, if the claimant or claimants show all of the following:

(1) That he or she is not a spouse of the judgment debtor, the bankrupt licensee, or a person representing the spouse.

(2) That he or she is making an application within the time specified in subdivision (e).

(3) That the claimant has satisfied the applicable requirements of subdivision (d).

(4) That, if the claimant is a seller of a manufactured home used by the seller for personal, family, or household purposes, the claimant made a good faith effort to adequately secure the debt resulting from the sale of the manufactured home and with respect to which the claim is made. For purposes of this paragraph, a good faith effort to secure the debt may be demonstrated by, but shall not be limited to, providing the department with a promissory note signed by the debtor and which, pursuant to the terms thereof, is secured by collateral with a reasonable value at least equal to the debt evidenced by the promissory note.

(g) Upon an order of the department directing that payment be made out of the fund, the Controller is authorized to draw a warrant for the payment of the amount of the claim approved by the department pursuant to this section.

(h) In dispersing moneys from the fund, the department is authorized to give priority to claimants who have attempted to purchase or sell a manufactured home for a personal or family residential purpose.

(i) All claims to the fund that are received on or after January 1, 1993, shall be processed, and a determination made, within one year of submission of a properly completed application.

(j) The department, upon request by a Member of the Legislature, shall provide the following information: the number of claims to the fund, number of claims processed and decided within one year of their application date and submission of a properly completed application, the amount of fund money paid to claimants, and the amount of fund money allocated for the department's costs.

CC § 798.73. Removal from park during term of rental agreement

The management may not require the removal of a mobilehome from the park in the event of its sale to a third party during the term of the homeowner's rental agreement or in the 60 days following the initial notice required by paragraph (1) of subdivision (b) of Section 798.55. However, in the event of a sale to a third party, in order to upgrade the quality of the park, the management may require that a mobilehome be removed from the park where:

(a) It is not a "mobilehome" within the meaning of Section 798.3.

(b) It is more than 20 years old, or more than 25 years old if manufactured after September 15, 1971, and is 20 feet wide or more, and the mobilehome does not comply with the health and safety standards provided in Sections 18550, 18552, and 18605 of the Health and Safety Code and the regulations established thereunder, as determined following an inspection by the appropriate enforcement agency, as defined in Section 18207 of the Health and Safety Code.

(c) The mobilehome is more than 17 years old, or more than 25 years old if manufactured after September 15, 1971, and is less than 20 feet wide, and the mobilehome does not comply with the construction and safety standards under Sections 18550, 18552, and 18605 of the Health and Safety Code and the regulations established thereunder, as determined following an inspection by the appropriate enforcement agency, as defined in Section 18207 of the Health and Safety Code.

(d) It is in a significantly rundown condition or in disrepair, as determined by the general condition of the mobilehome and its acceptability to the health and safety of the occupants and to the public, exclusive of its age. The management shall use reasonable discretion in determining the general condition of the mobilehome and its accessory structures. The management shall bear the burden of demonstrating that the mobilehome is in a significantly rundown condition or in disrepair. The management of the park may not require repairs or improvements to the park space or property owned by the management, except for damage caused by the actions or negligence of the homeowner or an agent of the homeowner.

(e) The management shall not require a mobilehome to be removed from the park, pursuant to this section, unless the management has provided to the homeowner notice particularly specifying the condition that permits the removal of the mobilehome.

25CCR § 5060. Escrow Required

(a) Concurrent with a dealer's receipt of any cash or cash equivalent from a purchaser at any time prior to delivery of a new or used manufactured home or mobilehome subject to registration, the dealer shall execute a mutually– endorsed receipt for deposit and purchase document. Within three working days thereafter, the dealer must establish with an escrow agent an escrow account into which all cash or cash equivalents shall be deposited. The escrow shall not be established with an escrow agent or agency in which the dealer has more than 5 percent ownership interest.

(b) Upon the purchaser's signing of the receipt for deposit and purchase document, the dealer shall provide the purchaser with a copy of each document, which must be mutually–endorsed.

(c) Upon establishment of the escrow account, the dealer shall provide the escrow agent, in writing, with the information required for the preparation of escrow instructions.

(d) These regulations do not imply, nor shall they be interpreted to require, that a recorded

certificate of title or junior lienholder registration card(s) be delivered to the purchaser through escrow as a condition of escrow. These regulations shall, however, provide that a release of any prior rights, title, or interest in a manufactured home or mobilehome being purchased or traded in as payment toward the manufactured home or mobilehome being purchased, held by the registered owner(s), legal owner, flooring lender shown on or in possession of a manufacturer's certificate of origin and junior lienholder(s) be obtained as a condition of escrow. In the event that the dealer owns the manufactured home or mobilehome and it has no liens, the dealer shall deliver into escrow either the certificate(s) of title or the manufacturer's certificate of origin, whichever is available.

(e) If the sale is subject to Section 18035.26 of the Health and Safety Code, the escrow agent must be in receipt of the signed Declaration of Declaration of Delivery Sale document prior to preparing escrow instructions. The date the Declaration was received by the escrow shall precede the date of preparation of escrow instructions.

25CCR § 5061.Escrow Instructions

From the information provided by the dealer, the escrow agent shall prepare escrow instructions and any amendments thereto for signing by both the dealer and purchaser. These escrow instructions may be signed in counterpart. Both the dealer and the purchaser shall receive copies of the signed escrow instructions and any mutually agreed amendments, with the originals or executed copies maintained by the escrow agent. The escrow instructions shall contain, but are not limited to, the following:

- (a) The names and addresses of both the dealer and the purchaser;
- (b) The names and addresses of the registered owner(s), legal owner of, flooring lender, and any junior lienholder(s), of the manufactured home or mobilehome.
- (c) The name, address and telephone number of the escrow agent;
- (d) A description of the manufactured home or mobilehome sold to the purchaser by the dealer which shall include, but not be limited to: the manufacturer name; model name, if available; size (excluding any hitch or towbar); model year, and a statement that prior to the close of escrow, the dealer shall provide the serial numbers of the manufactured home or mobilehome and the control number(s) of either the California Department of Housing and Community Development insignia(s) or the federal label(s) affixed to the manufactured home or mobilehome, which indicate compliance with applicable standards, in order to complete the description of the manufactured home or mobilehome.
- (e) Identification of the amounts paid or to be paid as a deposit, downpayment and/or balance due prior to closing, total price of the manufactured home or mobilehome and all accessories or services to be provided by the dealer as part of the sale, and any taxes, service fees, charges or other fees. The amounts disclosed by the dealer shall be consistent with the amounts set forth in the purchase document and receipt for deposit.
- (f) A general description of and designation of the cash value of each accessory and any installation thereof included in the purchase.

Note: This requirement does not apply when the accessories have been installed prior to the preparation of purchase documents.

- (g) The specific address or location where the purchaser will accept delivery of the manufactured home or mobilehome or any accessory thereto included in the purchase price.
If the sale is subject to Section 18035.26 of the Health and Safety Code, the address in the escrow instructions shall be the same as the address or location in the Declaration of Delivery Sale document and the purchase agreement.

(h) A statement of the conditions under which the purchaser will receive delivery of the manufactured home or mobilehome and any accessory thereto.

(i) A statement that prior to the close of escrow, the dealer shall secure and deliver into escrow signed and acknowledged release(s) of any rights, title or interest in the manufactured

home or mobilehome being purchased, executed by the registered owner(s), legal owner, flooring lender and any junior lienholder(s). Any such release shall be conditioned upon the receipt of disbursement by the party executing the release directly from the escrow account of the amount set forth in such release. If the purchaser(s) is/are assuming an indebtedness as evidenced by an existing lien, the dealer shall deliver into escrow documents executed by the legal owner and/or junior lienholder(s) consenting to the assumption by the buyer.

(j) A statement that prior to the close of escrow, the dealer shall secure and deliver into escrow a signed and acknowledged release of any rights, title or interest in the manufactured home, mobilehome or personal real property being sold or traded in as payment toward the manufactured home or mobilehome being purchased, from the registered owner(s), legal owner and any junior lienholder(s). Any such release shall be conditioned upon the receipt of disbursement directly from the escrow account of the amount set forth in such release. If the dealer is assuming an existing lien, he or she shall deliver into escrow documents executed by the legal owner and/or junior lienholder(s) consenting to the assumption by the dealer.

(k) A statement that prior to the close of escrow, when the manufactured home or mobilehome is located in a mobilehome park at the time of sale and is to remain in the park, a statement signed by the purchaser shall be delivered into escrow, indicating that the purchaser has read the rules and regulations of the park, and entered into the park's rental agreement. A copy of a fully executed rental agreement signed by the purchaser may be substituted for the purchaser's agreement.

(l) When the manufactured home or mobilehome being either purchased or traded in as payment toward the manufactured home or mobilehome being purchased is subject to local property taxation, the escrow instructions may provide for the proration of said taxes.

(m) Any documentation required for disbursement pursuant to Section 5062.

(n) In the event a purchaser intends to arrange for third party financing without the assistance of the dealer, a statement that escrow shall terminate 30 days from the date escrow was opened, and that all cash or cash equivalent, less escrow fees, will be returned to the purchaser, unless the purchaser delivers into escrow written confirmation from a lender that financing has been approved.

(o) In the event of a conditional purchase document, a statement that if the contract is not executed by the date escrow is to close, escrow shall terminate and all cash or cash equivalent paid to the dealer be returned to the purchaser.

(p) The date agreed upon, in writing, by the purchaser and dealer that escrow is to close.

25CCR § 5062. Disbursement of Escrow Funds

In addition to the requirements of Section 18035, **18035.2 and 18035.26** of the Health and Safety Code, the escrow agent shall disburse the amounts specified for the manufactured home or mobilehome and accessories only as follows:

(a) When the mobilehome is to be delivered to the site described in the escrow instructions, to be installed, and pass inspection pursuant to Section 18613 of the Health and Safety Code, the escrow instructions shall so state and shall require the dealer to deliver into escrow the following documentation to evidence delivery:

(1) A copy of either the statement of installation or the certificate of occupancy issued by the public agency performing the installation inspection; and

(2) A statement signed by the dealer indicating that the manufactured home or mobilehome has been delivered to the purchaser or that delivery has been offered to the purchaser in accordance with the agreement of the principals and that the purchaser is free to occupy the manufactured home or mobilehome to the exclusion of the dealer.

(b) When the manufactured home or mobilehome is to be delivered to the purchaser at a location specified in the escrow instructions and the purchaser will, at his or her own

convenience either actually and physically perform the installation of the manufactured home or mobilehome and accessories, or be responsible for such installation, the escrow instructions shall so state and shall contain a statement indicating that either the purchaser has agreed to actually and physically perform the installation of the manufactured home or mobilehome and accessories or has agreed to be responsible for such installation and understands that escrow may close and funds be disbursed upon delivery of the manufactured home or mobilehome to the purchaser at the location specified in the escrow instructions. ***In addition, if applicable, the escrow instructions shall include a copy of the Declaration of Delivery Sale required by section 18035.26 of the Health and Safety Code.*** The documentation required to evidence such delivery shall be a statement signed by both the dealer and the purchaser indicating that the manufactured home or mobilehome has been delivered to the purchaser at the location specified in the escrow instructions.

(c) When the manufactured home or mobilehome is ***already installed*** pursuant to Sections 18613 ***or 18551(b)*** of the Health and Safety Code, ***prior to the execution of the purchase agreement***, the escrow instructions shall so state and shall require the following documentation to be delivered into escrow to evidence delivery: a statement signed by both the dealer and the purchaser indicating that delivery has been received or that delivery has been offered to the purchaser in accordance with the agreement of the principals and that the purchaser is free to occupy the manufactured home or mobilehome to the exclusion of the dealer.

(d) The escrow agent can disburse the amount specified for each accessory specified in Section 5061(g) of this article only upon receipt of written notice signed by the dealer that the accessory has been actually installed or received by the purchaser in the event that installation is not required under the terms of the purchase document.

(e) The escrow agent can disburse the cash or cash equivalent in escrow to the purchaser in the event that the purchaser was unable to obtain third party financing within 30 days of the escrow opening or the conditional purchase document was not executed by the date escrow was to have been closed, as specified in Sections 5061(n) and (o), respectively.